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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,877	10/26/2001	Gregory Owen Miller	9DDW19324CIP	1751
23465	7590	06/03/2004	EXAMINER	
JOHN S. BEULICK C/O ARMSTRONG TEASDALE, LLP ONE METROPOLITAN SQUARE SUITE 2600 ST LOUIS, MO 63102-2740			LUGO, CARLOS	
		ART UNIT		PAPER NUMBER
		3676		
DATE MAILED: 06/03/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/682,877	MILLER ET AL.
	Examiner	Art Unit
	Carlos Lugo	3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 April 2004.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 11-19 is/are allowed.
 6) Claim(s) 1-5 is/are rejected.
 7) Claim(s) 6-10 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 18 September 2002 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on April 5, 2004.

Claim Objections

2. **Claims 6-10 are objected** to because of the following informalities:

Claim 6 Line 1, change "A dishwasher door latch assembly comprising" as -In combination with a dishwasher, a dishwasher door latch assembly comprising-. This change is required in order to positively recite the dishwasher cited on claim 6 line 3.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-5 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 2,948,560 to Rop in view of US Pat No 4,776,620 to Marks et al (Marks).

Regarding claim 1, Rop discloses a latch assembly comprising a door including a door retainer projection (16) and a hooded portion. Marks illustrates that the hooded portion could be square (Figures 1-9) or rounded (40, Figure 10).

A handle (20) pivotally mounted to a door. A latch actuator (14) is rotationally couple to the handle and is mounted to the door.

The handle rotates in a first direction and the actuator rotates in a second direction opposed to the first one.

A keeper (11) is engaged to a door retainer projection (16) in a closed position. The actuator is configured to disengage the keeper from the door retainer projection when the handle is actuated.

However, Rop fails to disclose that the keeper is resilient. Rop discloses that the latch actuator is resilient and the keeper rigid.

Marks teach that is known in the art to have a latch assembly with a resilient keeper (60) and a rigid actuator.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a resilient keeper and a rigid actuator, as taught by Marks, into a latching device as described by Rop, because it is mere a reversal of parts because either to have a rigid keeper and a resilient actuator, as described by Rop, or a resilient keeper and a rigid actuator, as taught by Marks, it will not affect the fact of engaging the keeper to the actuator.

As to claim 2, Rop illustrates that the handle comprises an actuator portion in sliding engagement with the latch actuator (the portion at the end of the handle).

As to claim 3, Rop illustrates that the handle further comprises a closed handle stop (the end of the handle near the pivot 21).

As to claim 4, Rop discloses that the handle rotates about a first longitudinal axis (21) and the actuator rotates about a second longitudinal axis (15).

As to claim 5, Rop illustrates that the handle and the actuator are placed on a housing or bracket.

Allowable Subject Matter

5. **Claims 11-19 are allowed.**
6. Claim 6 would be allowed if rewritten to include the corrections presented before in this office action, see claim objection above. Claims 7-10 would also be allowed because the claims depend from claim 6.

Response to Arguments

7. Applicant's arguments filed on April 5, 2004 have been fully considered but they are not persuasive.

As to applicant's arguments regarding that obviousness cannot be establish by merely suggesting that it would have been obvious to an ordinary skill in the art to make the modification (Page 7 Line 1), a conclusion of obviousness may be made from common knowledge and common sense of the person of ordinary skill without any specific hint or suggestion in a particular reference. *In re Bozek*, 416 F. 2d 1385, 1390 163USPQ545, 549 CCPA 1969.

As to applicant's arguments that there is no motivation to combine the teachings of Marks into the device described by Rop (Page 8 Line 3), the teachings of Marks, incorporated into Rop, will not affect the movement or the function of the latch mechanism.

As to applicant's arguments that Rop or Marks fails to disclose a door latch assembly that includes a door retainer projection and a rounded hooded portion (Page 8 Line 15), Rop already discloses these limitations. Furthermore, Rop

discloses that the hooded portion could be either square or rounded (see rejection above).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.



Carlos Lugo
AU 3676

May 28, 2004.

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600